California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1 2001-14

FOR

JOHN W. SPENCER
WESTSIDE CLEANERS
REGINALD K. SPENCER
BEV'S WESTSIDE CLEANERS
CLAUDETTE GIBBS
GALE S. GIBBS
SANTA ROSA FRENCH CLEANERS
SONOMA FRENCH CLEANERS
MICHAEL KELLY
THE KELLY FAMILY 1994 TRUST

946 West College Avenue
Santa Rosa, California
Sonoma County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. From 1980 to 1993, various dry cleaning businesses with onsite cleaning capabilities operated at 946 West College Avenue, Santa Rosa, California. The 946 West College Avenue address is one of six tenant spaces within a common building on a single parcel with addresses ranging from 920 to 950 West College Avenue. The parcel is identified as Assessor's Parcel No. 037-031-052 (hereinafter Site).

2. The Site is bordered on the east and south by residential housing, on the west by a commercial property and residential housing and to the north by West College Avenue, commercial buildings, and residential housing. The area immediately to the east, south and west of the Site is an unincorporated area of Sonoma County. The unincorporated area includes Clover Drive, Wild Rose Drive and Blossom Way. The unincorporated area is surrounded by incorporated areas of the City of Santa Rosa.

3. On June 11, 1948, Joseph M. and Patricia Hashagen purchased the Site from Fred and Irma Goode and Henry and Elenor LeBlanc. On July 20, 1978, Patricia Hashagen, a widow, granted the Site to Janet Kelly, trustee. On August 15, 1978, Janet Kelly, trustee, granted the Site to Janet and Michael Kelly as joint tenants. On September 13, 1994, Michael and Janet Kelly granted the Site to The Kelly Family 1994 Trust, with Michael and Janet Kelly as trustees. On July 7, 2000, Michael Kelly (widower) resigned as surviving co-trustee and Cynthia Kelly was appointed trustee of The Kelly Family 1994 Trust. The Kelly Family 1994 Trust is the current owner of the Site.

4. From 1949 to 1959, Edwin and Irma Paul owned and operated a clothing drop off station and pressing business at the Site called Herbert Cleaners. Jean and Marvin King owned and operated the business as Westside Cleaners during the early 1960s. The Kings sold the business on an unknown date and at least two intermediate owners operated the business until approximately 1974 when the Kings repurchased and operated the business. Jean King sold the business to John Spencer on November 18, 1980. The Spencers installed dry cleaning equipment for onsite cleaning capabilities. John W. Spencer operated the business as Westside Cleaners. John's son, Reginald K. Spencer and his wife Beverly Ann Spencer operated Bev's Westside Cleaners. Reginald K. Spencer sold Bev's Westside Cleaners on May 16, 1983 to Claudette and Gale Gibbs. Claudette and Gale Gibbs operated the business as Santa Rosa French Cleaners and later as Sonoma French Cleaners. Claudette Gibbs operated Sonoma French Cleaners at the Site until 1993.

5. Prior to ownership by John W. Spencer, the business was operated as a drop off station only with no dry-cleaning equipment on the premises. The Spencers installed dry-cleaning equipment at this site in the early 1980s. The equipment that was installed utilized perchloroethylene (PCE, also known as tetrachloroethylene or Perc) as the cleaning solvent in the dry-cleaning process. Equipment installed by the Spencers was reportedly used and in poor condition. Statements provided by Marvin King (business owner prior to the Spencers) and Claudette Gibbs (business owner after the Spencers) document the poor condition of this equipment. Claudette and Gale Gibbs installed new equipment after using the Spencer installed equipment for one year.

6. On February 25, 1991, the City of Santa Rosa Utilities Department issued Industrial Water Discharge Permit #SR-NR4543 to Claudette Gibbs as owner of Sonoma French Cleaners. Permit #SR-NR4543 prohibited the discharge of PCE to the sanitary sewer and required that any dry cleaning water separator condensate or any other waste containing PCE be collected, stored, and disposed of as hazardous waste.

7. On September 21, 1992, the City of Santa Rosa inspected the southern sanitary sewer line on West College Avenue after receiving reports of solvent odors in the sewer system. On that date, a sample was collected from manhole #4 and PCE was detected at 15,000 ug/l (parts per billion or ppb). A second sample was collected from manhole #4 on December 6, 1992 and PCE was detected at 210 ppb.

8. On January 13, 1993, the City of Santa Rosa Utilities Department issued a Notice of Violation to Claudette Gibbs for violation of the wastewater discharge permit and Sections 20.39 and 20.46 of the City's Sewer Use Ordinance. The City determined that Sonoma French Cleaners was the only facility served by the sewer line that used or stored PCE on premises.

9. The Kelly Family 1994 Trust, Michael Kelly, each as owners of the Site that permitted the discharge of waste, John W. Spencer, Westside Cleaners, Reginald K. Spencer, Beverly Ann Spencer, Bev's Westside Cleaners, Claudette Gibbs, Gale S. Gibbs, Santa Rosa French Cleaners and Sonoma French Cleaners, are hereinafter collectively referred to as the Dischargers. Continued review of facts and data may result in additional parties being named in this Order as Dischargers, in which case this Order would be revised.

10. On November 9, 1999, a domestic water supply well was sampled by an interested party as part of a potential property transaction at 1000 West College Avenue (also known as 1040 Clover Drive). This property is located west of 946 College Avenue. The well was reported to contain PCE at 33 ppb. Regional Water Board staff collected a confirmation sample from the well on November 23, 1999. PCE was detected at 37.3 ppb. The Maximum Contaminant Level (MCL) for PCE is 5 ppb.

11. PCE is commonly used in the dry cleaning industry as a cleaning solvent. PCE is a potential carcinogen, and is listed by the State of California pursuant to the Safe Drinking Water and Toxic Enforcement Act of 1986 as a chemical known to the State to cause cancer.

12. Regional Water Board applied for Cleanup and Abatement Account emergency funds to sample domestic water supply wells in the area of West College Avenue and Clover Drive. To date, over 120 wells have been sampled, 26 wells have been found to contain PCE at levels ranging from 0.551 to 576 ppb. Three wells located on the parcels adjacent to the Site on the east, southwest and west contain PCE at 292, 576, and 310 ppb, respectively.

13. On October 31, 2000, the Executive Officer issued a California Water Code section 13267 Order to The Kelly Family 1994 Trust and Claudette Gibbs requiring, by November 30, 2000, the submittal of:

    - A work plan to investigate the soil and groundwater contamination with respect to PCE and related chemicals of concern to determine the extent of any release of PCE at this Site.

    - A report of chemical use practices including any historical maps, building plans, construction diagrams, or other comments related to chemical and waste storage and use at the Site.

    - A report containing copies of any and all lease agreements related to the operation of the dry cleaners as well as copies of any and all insurance policies.

14. On November 27, 2000, a work plan was submitted by Stellar Environmental Services on behalf of The Kelly Family 1994 Trust. On December 7, 2000 the Executive Officer concurred with the work plan as a limited preliminary site assessment.

15. On December 7, 2000, Stellar Environmental Services partially implemented the work plan. Regional Water Board staff collected split soil and groundwater samples for chemical analyses. Four soil and four groundwater samples were collected in the south parking lot of the Site. Additionally, a groundwater and two soil samples were collected beneath the floor of the former Sonoma French Cleaners. The results of the samples collected by Regional Water Board staff show the presence of PCE in soil from 8.28 ppb to 616 ppb and in groundwater from 111 ppb to 18300 ppb. The results confirm that a discharge occurred at 946 West College Avenue and that the Site is a source of PCE discharges to groundwater.

16. Existing and potential beneficial uses of the area's groundwater include domestic, agricultural, industrial and municipal water supply.

Water quality objectives exist to ensure protection of the beneficial uses of water. Several beneficial uses of water exist, and the most stringent water quality objectives for protection of all beneficial uses are selected as the protective water quality criteria. The following water quality objectives for PCE and other selected constituents apply to the surface waters and groundwater near the Site:

Constituent of Concern	Background Level µg/l	Water Quality Objective µg/l	Reference for Objective
1,1,1-Trichloroethane	<0.5	200	For protection of domestic supply, Title 22 § 64444.5
1,1-Dichloroethane	<0.5	5	For protection of domestic supply, Title 22 § 64444.5
1,1-Dichloroethene	<0.5	6	For protection of domestic supply, Title 22 § 64444.5
1,2-Dichloroethane	<0.5	0.4	The Maximum Contaminant Level for protection of domestic supply, Title 22 § 64444.5, is 0.5 µg/l. However, for protection of domestic water supply, all household uses must be considered including drinking water, showering and bathing, food preparation and similar uses. The Office of Environmental Health Hazard Assessment (OEHHA) issues Public Health Goals for water for protection of public health in the domestic use of water, and the PHG for 1,2-Dichloroethane is 0.4 µg/l.
Carbon tetrachloride	<0.5	0.1	The Maximum Contaminant Level for protection of domestic supply, Title 22 § 64444.5, is 0.5 µg/l. However, for protection of domestic water supply, all household uses must be considered including drinking water, showering and bathing, food preparation and similar uses. The Office of Environmental Health Hazard Assessment (OEHHA) issues Public Health Goals for water for protection of public health in the domestic use of water, and the PHG for Carbon tetrachloride is 0.1 µg/l.
Chloroform	<0.5	100	For protection of domestic supply, Title 22 § 64444.5
cis-1,2-Dichloroethene	<0.5	6	For protection of domestic supply, Title 22 § 64444.5

Methyl Tertiary Butyl Ether (MtBE)	<0.5	5	California Secondary MCL for protection of Taste and Odor, Title 22 § 64444.5
Tetrachloroethene (PCE)	<0.5	5	The Maximum Contaminant Level for protection of domestic supply, Title 22 § 64444.5, is 5.0 µg/l. However, for protection of domestic water supply, all household uses must be considered including drinking water, showering and bathing, food preparation and similar uses. The Office of Environmental Health Hazard Assessment (OEHHA) issues Public Health Goals for water for protection of public health in the domestic use of water, and the draft PHG for tetrachloroethylene is 0.56 µg/l, which will be the water quality objective when finalized.
Vinyl chloride	<0.5	<0.5	For protection of domestic supply, Title 22 § 64444.5
trans-1,2-Dichloroethene	<0.5	10	For protection of domestic supply, Title 22 § 64444.5
Trichloroethene (TCE)	<0.5	0.8	The Maximum Contaminant Level for protection of domestic supply, Title 22 § 64444.5, is 5.0 µg/l. However, for protection of domestic water supply, all household uses must be considered including drinking water, showering and bathing, food preparation and similar uses. The Office of Environmental Health Hazard Assessment (OEHHA) issues Public Health Goals for water for protection of public health in the domestic use of water, and the PHG for trichloroethene is 0.8 µg/l.

17. The Dischargers have caused or permitted, cause or permit, or threaten to cause or permit waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and created, or threaten to create, a condition of pollution or nuisance. The discharge and threatened discharge of waste is deleterious to the beneficial uses of water and is creating and threatens to create a condition of pollution that threatens to continue unless the discharge and threatened discharge is permanently abated.

18. State Water Resources Control Board Resolution 92-49, applicable here, sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code." Alternative cleanup and abatement actions need to be considered that evaluate the feasibility of, as a minimum, (1) cleanup to background levels, (2) cleanup to levels attainable through application of best available technology, and (3) cleanup to protective water quality objectives.

19. The Dischargers are liable to the Regional Water Board for reasonable costs actually incurred for abating the effects of the waste, as well as for overseeing cleanup and abatement activities, pursuant to section 13304 of the California Water Code.

20. The Regional Water Board will ensure adequate public participation at key steps in the remedial action process, and shall ensure that concurrence with a remedy for cleanup and abatement of the discharges at the site shall comply with the California Environmental Quality Act (at Pub. Res. Code § 21000 et seq.; "CEQA").

21. This enforcement action being taken for the protection of the environment and is, therefore, exempt from CEQA in accordance with Section 15308 and 15321, Chapter 3, Title 14 of the California Code of Regulations.

THEREFORE IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge of volatile organic compounds forthwith and shall comply with the following provisions of the Order:

A. Conduct all work under the direction of a California professional civil engineer or registered geologist experienced in volatile organic compound soil and groundwater investigation and remediation projects.

B. Submit a work plan within 60 days of issuance of this Order to define the vertical and horizontal extent of contamination.

C. Implement the work plan within 60 days of Executive Officer concurrence with the plan.

D. Submit a report of findings within 60 days of work plan implementation. This report of findings shall include an adequate work plan of additional tasks necessary to further define the complete vertical and lateral extent of contamination. The report shall also include an adequate time schedule for completion of the remedial investigation, development and submittal of a feasibility assessment, and development and submittal of a draft and final remedial action plan. Implement the final remedial action plan within 60 days of Executive Officer concurrence with the plan.

E. Provide monthly progress reports describing all actions taken to comply with this Order. Reports shall contain sufficient detail to determine progress in implementing the work plan.

F. If for any reason, the Dischargers are unable to perform any activity or submit any documentation in compliance with the work schedule set forth herein or in compliance with any schedule submitted pursuant to the Order and approved by the Executive Officer, the Dischargers may request, in writing, a time extension. The extension request must be submitted at least five days in advance of the due date and shall include justification for the delay including a good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all subsequent dates dependent upon the extension. An extension may be granted for good cause, in which case this Order will be accordingly revised.

Ordered by: _____

Lee A. Michlin
Executive Officer

March 14, 2001

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